

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

BRANDON LACY

PLAINTIFF

v.

No. 5:19-cv-95-DPM

**DEXTER PAYNE, Director,
Arkansas Division of Correction**

DEFENDANT

ORDER

A motion to quash must be filed with “the court for the district where compliance is required.” Fed. R. Civ. P. 45(d)(3)(A). The subpoena directs the Benton County Prosecutor’s Office to produce documents at its office in Bentonville, Arkansas. Bentonville is in the Western District of Arkansas. The Prosecutor’s Office filed its motion with the wrong court. This Court is unpersuaded by the Prosecutor’s reading of the cited precedent. The motion, *Doc. 49*, is therefore denied without prejudice. Motion to strike, *Doc. 53*, is denied as moot. Lacy’s motion for leave to file a reply, *Doc. 64*, is granted; reply, *Doc. 64-1*, deemed filed.

The Court stayed discovery to permit the parties to brief the motion to quash. *Doc. 52*. The Court is heartened to learn that a privilege log has been prepared and served. *Doc. 62*. The stay will remain in place as follows. The Prosecutor’s Office must refile its motion to quash with the United States District Court for the Western

District of Arkansas by 15 November 2024. If the Prosecutor's Office intends (as indicated) to move to transfer the motion to quash to this Court pursuant to Federal Rule of Civil Procedure 45(f), it must file that motion by November 15th, too. This Court would, of course, accept transfer of the motion. Please so inform the Western District. If the Prosecutor's Office misses those deadlines, the stay is lifted. The stay will otherwise remain in place until a ruling on the refiled motion to quash.

So Ordered.

D.P. Marshall Jr.

D.P. Marshall Jr.
United States District Judge

7 November 2024